

Healthcare Liability Package Policy



HEALTHCARE LIABILITY PACKAGE POLICY

SCHEDULE

Policy number: P26915D20A

Renewal of: P26915D19A

Item 1.	Named Insured	United Workers Union 833 Bourke Street Docklands Victoria 3008
Item 2.	Policy Period	From: 8 th August 2020 To: 8 th August 2021 Both dates 12:01am at the Named Insured's address
Item 3.	Policy Wording	Allied World HCAUS 100 (05/17) attached
Item 4.	Insured's Business	Association Members of the United Workers Union that are qualified: Ambulance Officers Pharmacists Radiographers Registered Nurses Enrolled Nurses Sonographers Dentist Dental prosthetist Medical radiation practitioner Diagnostic radiographer Medical imaging technologist Nuclear medicine scientist Nuclear medicine technologist Radiation therapist Aboriginal Health Practitioner
Item 5.	Section Limits of Liability	
	A. Healthcare Liability Section	Operative Section
	a. Each Claim	AUD 20,000,000
	b. Aggregate	AUD 40,000,000
	B. Professional Liability Section	Section Not Operative
	C. Public Liability Section	Section Not Operative



A FAIRFAX Company

Item 6.	Extension Sub-Limits of Liability	
	A. <u>Abuse Defence Costs</u>	
	a. Each Claim	AUD 100,000
	b. Aggregate	AUD 100,000
	B. <u>Court Attendance Costs</u>	
	a. Managers	AUD 100 per day and per individual
	b. Other Insured Individuals	AUD 100 per day and per individual
	c. Aggregate	AUD 100,000
	C. <u>Fraud/Dishonesty</u> Defence <u>Costs</u>	
	a. Each Claim or Occurrence	AUD 100,000
	b. Aggregate	AUD 100,000
	D. <u>Public Relations Costs</u>	
	a. Each Claim or Occurrence	AUD 50,000
	b. Aggregate	AUD 50,000
Item 7.	Additional Cover Sub-Limits of Liability	
	A. <u>Lost Documents Expenses</u>	
	a. Aggregate Limit of Liability	AUD 50,000
Item 8.	Policy Aggregate Limit	AUD 40,000,000
Item 9.	Excesses Applicable	
	A. Healthcare Liability Section	
	Each Claim	AUD 2,000
	B. Professional Liability Section	Not applicable
	C. Public Liability Section	Not applicable
Item 10.	Additional Cover Excesses	
	A. <u>Lost Documents Expenses</u>	
	a. Aggregate Excess	AUD 2,000 each Claim
Item 11.	Policy Retroactive Date	8 th August 2018
Item 12.	Other Retroactive Dates	None applicable
Item 13.	Coverage Territory	Australia Only
Item 14.	Claims Jurisdiction	Australia Only
Item 15.	Premium	AUD 25,688.00 (excluding applicable taxes)
Item 16.	Premium Due Date	16 th October 2020
Item 17.	Notices to the Insurer	
	A. <u>Claims matters</u>	Globalhealthcareclaims@awac.com



B. All other notices

Allied World Assurance Company
(Europe) dac

Attn: Healthcare Underwriting

20 Fenchurch Street

London

EC3M 3BY

United Kingdom

GENERAL AND IMPORTANT NOTICES

ALLIED WORLD ASSURANCE COMPANY LTD (AUSTRALIA BRANCH)

Allied World Assurance Company, Ltd (Australia Branch) ("Allied World") is an authorised general insurer under the Insurance Act 1973 and is regulated by the Australian Prudential Regulation Authority ("APRA").

INTERPRETATION

This **Policy** is issued in consideration of the payment of the Premium and in reliance on the information provided by or on behalf of the **Named Insured** in the **Proposal** or otherwise in respect of the insurance provided by this **Policy**. Any word appearing in **bold black print** has a defined meaning. The definitions can be found in Part D of this **Policy**. The Section insuring agreements in Part A of this **Policy** are referred to in **bold red print** throughout this **Policy**.

References to the singular include the plural and vice versa. The masculine includes the feminine and vice versa. A statute, statutory instrument, regulation or order includes any amendment or re-enactment of that statute, statutory instrument, regulation or order. Any reference to a "person" (but not a "natural person") includes a natural person, entity or organisation.

COVER PROVIDED BY THE POLICY

This **Policy** includes insurance cover for Healthcare Liability, and also Professional Liability and Public Liability, if operative, in accordance with the terms herein. The **Healthcare Liability Section** provides cover in respect of **Patient Injury**, and the **Professional Liability Section** and **Public Liability Section** provide cover in respect of **Non-Patient Injury**, in accordance with the terms of those Sections. The **Professional Liability Section** and **Public Liability Section** shall only be operative if designated as such in the **Schedule**. If the **Public Liability Section** is operative, this widens the scope of **Patient Injury**, and narrows the scope of **Non-Patient Injury**. Please read the entire **Policy** carefully to determine your rights and duties as an **Insured**, and what is and is not covered. Various provisions throughout this **Policy** restrict or exclude coverage.

CLAIMS MADE AND NOTIFIED AND OCCURRENCE COVER

The Sections of Part A of this **Policy** respond in different ways, depending on whether they are described as being on a "claims-made and notified" basis or on an "occurrence" basis, as indicated in the title to each such Section.

If a Section of Part A of this **Policy** is described as being on a "claims-made and notified" basis (namely, the **Healthcare Liability Section** and the **Professional Liability Section** (if operative)), this means that the Section only covers an eligible **Claim** first made against the **Insured** during the **Policy Period** and reported to Allied World in writing no later than 30 days after the **Policy Period**. Such a Section of Part A of this **Policy** will not provide cover for any **Claim** if at any time prior to the **Inception Date**, the **Insured** became aware of facts or circumstances which might give rise to such **Claim** being made against it or if the act, error or omission giving rise to such **Claim** against the **Insured** occurred before the **Retroactive Date** specified in the **Schedule** as relevant to the applicable Section of Part A of this **Policy**.

Section 40(3) of the Insurance Contracts Act 1984 (Cth) will apply to any Section of Part A of this **Policy** described as being on a "claims-made and notified" basis. It provides that where an insured becomes aware of any facts which might give rise to a claim against them, provided that the insured notifies the insurer in writing of those facts as soon as reasonably practicable after becoming aware of them before the policy period expires, an insurer cannot refuse to pay a claim which arises out of those facts, merely because when the claim is made, it is made after the policy period has expired.

If a **Claim** is actually made against an **Insured** during the **Policy Period** relevant to a Section of Part A of this **Policy** described as "claims made and notified" but the **Insured** does not notify Allied World until after 30 days after the **Policy Period** expires, Allied World may refuse to pay or may reduce its payment under this **Policy** if it suffers any prejudice as a result of the late notification of the **Claim**.

If a Section of Part A of this **Policy** is described as being “occurrence” based (namely the **Public Liability Section**), it means that the Section will only cover an eligible **Claim** arising from **Injury** that takes place during the **Policy Period**.

INSURED’S DUTY OF DISCLOSURE

Section 21 of the Insurance Contracts Act 1984 (Cth) provides that before an **Insured** enters into an insurance contract, they have a duty to tell the insurer, Allied World, anything that they know, or could reasonably be expected to know, that may affect Allied World's decision to insure them and on what terms. The **Insured** has this duty until Allied World agrees to insure the **Insured**. The **Insured** has the same duty to disclose before they renew, extend, vary or reinstate an insurance contract.

However, the **Insured** does not need to tell Allied World anything that:

- reduces the risk Allied World insures the **Insured** for; or
- is common knowledge; or
- Allied World knows or, should know as an insurer; or
- Allied World waives the **Insured's** duty to tell them about.

If you the Insured do not tell Allied World something

If you do not tell Allied World anything you are required to, Allied World may cancel your contract or reduce the amount it will pay you if you make a **Claim** or both. If your failure to tell Allied World is fraudulent, Allied World may refuse to pay a **Claim** and treat the contract as if it had never existed.

DUTY OF UTMOST GOOD FAITH

There is implied into this contract a duty of utmost good faith which means that Allied World, the **Insured** and any other person to whom the benefit of this **Policy** extends are required to act towards each other, in respect of any matter arising under or in relation to this **Policy**, with the utmost good faith. Failure to do so may prejudice any claim by an **Insured** or the continuation of this **Policy**.

SUBROGATION

Allied World may not cover the **Insured** under this **Policy** for loss or damage where the **Insured** has agreed with another person either before or after the loss or damage occurred that the **Insured** would not seek to recover their loss or damage from that person. An **Insured** must not act or omit to act (as relevant) after a **Claim** is made that may result in the waiving or prejudicing of the **Insured's** rights to which Allied World expects to be subrogated.

DEFENCE COSTS

Unless stated otherwise, any payment of **Defence Costs** by the **Insurer** under this **Policy** shall reduce the applicable limits of liability of this **Policy** even if the **Insurer** assumes the control pursuant to Notice and Conduct of Claims Condition 6, Claims Control, of this **Policy**. **Defence Costs** also reduce the applicable Excesses of this **Policy**.

PRIVACY

The Australian Privacy Principles, under the Privacy Act 1988 (Cth), regulate the way in which private sector organisations like Allied World can collect, use and disclose personal information. Allied World is committed to compliance with this legislation and protecting an **Insured's** privacy.

In the course of assessing the risk and providing insurance, administering a policy and assessing and managing claims, Allied World may collect, use and disclose personal information about individuals. Personal information may be obtained by Allied World directly from you, the **Insured**, or via a third party such as an insurance intermediary. If this information is not provided to Allied World, it may not be able to provide insurance, administer the **Policy** or process a **Claim**.



Allied World's privacy policy contains information required to be given to persons about whom it collects personal information and is available upon request from Allied World at the following address:

Data Protection Officer
Allied World Assurance Company, Ltd (Australia branch)
264 George Street
Australia Square, Level 21
Sydney, NSW, 2000
Tel: +612 8015 2500 Fax: +612 8015 2549

info@awac.com

The privacy policy contains information on the kinds of personal information Allied World collects and holds, how it does so and the purposes for which Allied World collects, holds and discloses personal information. It also contains information on how you, the **Insured** can access your personal information, how to seek correction of such information, how you can make a complaint against Allied World for a breach of the Australian Privacy Principles and when Allied World is likely to disclose personal information to overseas recipients, including the countries in which they are likely located.

In some circumstances Allied World may disclose an **Insured's** personal information to a third party (some of which may be outside Australia) such as:

- the **Insured's** intermediary
- reinsurers
- professional advisers such as lawyers and accountants
- Allied World's business service providers, such as information technology and other support services.

In order to provide services, Allied World may need to transfer personal information to other entities within the Allied World group of companies (such as its offices in Europe, Asia, Bermuda or the United States of America).

By providing Allied World with your personal information, you, the **Insured**, consent to its collection, use and disclosure as outlined above and in Allied World's privacy policy.

COMPLAINTS PROCEDURE

It is Allied World's intention always to supply a first-class standard of service. However, should you have any cause for complaint or you wish to make an enquiry regarding this insurance you may contact Allied World at the following address:

Allied World Assurance Company, Ltd (Australia branch)
264 George Street
Australia Square, Level 21
Sydney, NSW, 2000
Tel: +612 8015 2500 Fax: +612 8015 2549

info@awac.com

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**PART A
INSURING AGREEMENTS**

The insurance provided by this **Policy** in the Sections below is subject to all the terms of this **Policy** unless stated otherwise.

**HEALTHCARE LIABILITY SECTION
CLAIMS MADE AND NOTIFIED**

The **Insurer** will indemnify the **Insured** for **Damages** the **Insured** is legally liable to pay:

1. on account of **Patient Injury** where such **Injury** is caused by an **Incident** first occurring after the **Retroactive Date** and before the end of the **Policy Period**; and
2. as a result of a **Claim** first made against the **Insured** during the **Policy Period** and notified to the **Insurer** as soon as reasonably practicable and no later than 30 days after the end of the **Policy Period**.

The **Insurer** will also indemnify the **Insured** for **Defence Costs** incurred by the **Insured** with the **Insurer's** prior written consent (not to be unreasonably withheld) in respect of a **Claim** covered under this Section.

Any reference in this **Policy** to the title of this Section, "**Healthcare Liability Section**", is to this Section in this Part A of this **Policy**.

**PROFESSIONAL LIABILITY SECTION
CLAIMS MADE AND NOTIFIED**

The insurance provided by this **Professional Liability Section** will only be operative if this Section is shown as "operative" in Item 5 of the **Schedule**.

The **Insurer** will indemnify the **Insured** for **Damages** the **Insured** is legally liable to pay:

1. on account of **Non-Patient Injury** caused by a **Wrongful Act** first occurring after the **Retroactive Date** and before the end of the **Policy Period**; and
2. as a result of a **Claim** first made against the **Insured** during the **Policy Period** and notified

to the **Insurer** as soon as reasonably practicable and no later than 30 days after the end of the **Policy Period**.

The **Insurer** will also indemnify the **Insured** for **Defence Costs** incurred by the **Insured** with the **Insurer's** prior written consent (not to be unreasonably withheld) in respect of a **Claim** covered under this Section.

Any reference in this **Policy** to the title of this Section, "**Professional Liability Section**", is to this Section in this Part A of this **Policy**.

**PUBLIC LIABILITY SECTION
OCCURRENCE**

The insurance provided by this **Public Liability Section** will only be operative if this Section is shown as "operative" in Item 5 of the **Schedule**.

The **Insurer** will indemnify the **Insured** for **Damages** the **Insured** is legally liable to pay on account of **Non-Patient Injury**:

1. occurring during the **Policy Period**; and
2. caused by an **Occurrence**.

The **Insurer** will also indemnify the **Insured** for **Defence Costs** incurred by the **Insured** with the **Insurer's** prior written consent (not to be unreasonably withheld) in respect of a **Claim** arising from an **Occurrence** covered under this Section.

This Section does not cover, and the **Insurer** will not indemnify or be liable to the **Insured** under this Section in respect of any actual or alleged liability arising from any breach of professional duty or otherwise from the rendering of or failure to render any professional advice, care or service.

Any reference in this **Policy** to the title of this Section, "**Public Liability Section**", is to this Section in this Part A of this **Policy**.

**PART B
EXTENSIONS & ADDITIONAL COVER**

Unless otherwise stated, all terms of this **Policy** apply to the extensions and additional cover in this Part B of this **Policy** that follow.

MANUFACTURE OF MEDICAL PRODUCTS EXTENSION

The insurance provided under the **Healthcare Liability Section** is extended to include in the first paragraph of the definition of **Incident** an act, error or omission of the **Insured**, or of a person acting for or on behalf of the **Insured** or from the **Insured's Premises**, in breach of professional duty in the manufacture, modification or mixing of a product or good (including any medication, medical device or appliance, and any container, packaging, labelling or instructions for use with such product or good) where such product or good is furnished or used by any such person in the rendering of **Healthcare Treatment** within the **Coverage Territory** and undertaken in the conduct of the **Insured's Business**. Exclusion 27, Products of this **Policy** will not apply to this Extension, but nothing in this Extension will be construed to provide cover for the sale or supply of any product or good not both (a) manufactured, modified or mixed, and (b) furnished or used, as set out above.

DEFENCE COSTS EXTENSIONS

Unless stated otherwise, the following Extensions extend the insurance for **Defence Costs** provided under any operative Section of Part A of this **Policy**.

1. **Abuse**

This Extension only applies to the **Healthcare Liability Section**.

Civil proceedings

Exclusions 1, Abuse, and 8, Criminal, Fraudulent, Dishonest Acts or Omissions, of this **Policy** shall not apply to any **Defence Costs** incurred by the **Insured** with the **Insurer's** prior written consent (not to be unreasonably withheld) in respect of a **Claim** alleging **Abuse** which would be covered under the **Healthcare Liability Section** but for the above Exclusions.

For the purposes of this Extension, all **Claims** in respect of any one person, or two or more

persons acting in concert, carrying out the same or similar kind of **Abuse** (whether of one or more persons) will be deemed to be one **Claim**. All such **Claims** will be deemed to have been first made at the time the first **Claim** arising from any of such **Abuse** is first made, and to have been notified to the **Insurer** at the time the first notice of any of such **Claims** is given to the **Insurer**, or if any of such **Claims** arises from any **Circumstance** first notified to the **Insurer** before any of such **Claims** is first made, all such **Claims** will be deemed to have arisen from the first such **Circumstance** and to have been first made and notified to the **Insurer** at the time the first notice of the first such **Circumstance** is given to the **Insurer**. All **Abuse** giving rise to such **Claims** will be deemed to have taken place at the time of the first act of **Abuse** giving rise to any of such **Claims**.

Criminal proceedings

Further, the insurance provided for **Defence Costs** is extended to include reasonable and necessary legal costs and expenses incurred by the **Insured** with the **Insurer's** prior written consent (not to be unreasonably withheld) in the defence of any criminal proceedings brought against the **Insured** in respect of any offence of **Abuse**, provided that:

1. such **Abuse** is the same as that giving rise to the **Claim(s)** for which **Defence Costs** cover is available pursuant to the paragraphs above;
2. such proceedings are notified to the **Insurer** as soon as reasonably practicable; and
3. such proceedings have not been notified to any prior or subsequent insurance policy.

Exclusions 1, Abuse, and 8, Criminal, Fraudulent, Dishonest Acts or Omissions, of this **Policy** will not apply to such extended **Defence Costs**.

Extension Conditions

The **Named Insured** must take all steps possible to cease any **Abuse**, prevent any further **Abuse** and minimize any liability which may arise from any **Abuse**.

Extension Exclusions

No part of this Extension will apply:

- a. to any costs or expenses incurred by or on behalf of an **Insured** from the time any final judgment or other final adjudication (not subject to any further appeal) is entered against such **Insured**, or from the time of any guilty plea or other admission under oath is made by such **Insured**, in respect of any such **Claim(s)** or criminal proceedings; or
- b. if a Senior Counsel with the appropriate experience and expertise mutually agreed upon by the **Insurer** and the **Named Insured** (or if no agreement is reached, appointed by the President of the Bar Council of the New South Wales Bar Association) advises that any such **Claim(s)** alleging **Abuse** or such criminal proceedings cannot be contested with a reasonable likelihood of success. The costs of the Senior Counsel's advice will be deemed to be **Defence Costs** under this **Policy**.

Any reference to **Abuse** in this Extension will be deemed to include any conscious disregard thereof.

2. **Court Attendance Costs**

The definition of **Defence Costs** is extended to include the sums specified in Item 6 of the **Schedule** for any **Insured Individual** specified therein who is required in the **Insurer's** reasonable opinion to attend court within the **Coverage Territory**.

For the purposes of Item 6 of the **Schedule**, "Manager" will mean any principal, partner, director or manager of an **Insured Entity**.

3. **Inquest and Investigation Costs**

The insurance provided for **Defence Costs** is extended to include reasonable and necessary legal costs and expenses incurred by the **Insured** with the **Insurer's** prior written consent (not to be unreasonably withheld) in

the representation of the **Insured** at a coroner's inquest, disciplinary proceeding or other inquiry undertaken in the exercise of regulatory, licensing or statutory powers within the **Coverage Territory**, provided that:

1. the subject of such inquest, disciplinary proceeding or other inquiry is an **Incident, Wrongful Act** or **Occurrence** giving rise to a **Claim** covered under an operative Section of Part A of this **Policy**;
2. such inquest, disciplinary proceeding or other inquiry is notified to the **Insurer** as soon as reasonably practicable; and
3. such inquest, disciplinary proceeding or other inquiry has not been notified to any prior or subsequent insurance policy.

Extension Exclusions

This Extension will not apply to any costs or expenses incurred by an **Insured Individual** in connection with any inquest, disciplinary proceeding or other inquiry if a Senior Counsel with the appropriate experience and expertise mutually agreed upon by the **Insurer** and the **Named Insured** (or if no agreement is reached, appointed by the President of the Bar Council of the New South Wales Bar Association) advises that any such inquest, disciplinary proceeding or other inquiry cannot be contested with a reasonable likelihood of success. The costs of the Senior Counsel's advice will be deemed to be **Defence Costs** under this **Policy**.

4. **Fraud/Dishonesty**

Civil proceedings

Exclusion 8, Criminal, Fraudulent, Dishonest Acts or Omissions, of this **Policy** will not apply to any **Defence Costs** incurred by the **Insured** with the **Insurer's** prior written consent (not to be unreasonably withheld) in respect of a **Claim** alleging a fraudulent, dishonest, malicious or reckless act or omission (other than **Abuse** (or conscious disregard thereof) or an offence of manslaughter) which would be covered under an operative Section of Part A of this **Policy** but for the above Exclusion.

Criminal proceedings

Further, the insurance provided for **Defence Costs** is extended to include reasonable and

necessary legal costs and expenses incurred by the **Insured** with the **Insurer's** prior written consent (not to be unreasonably withheld) in the defence of any criminal proceedings alleging a fraudulent, dishonest, malicious or reckless act or omission (other than **Abuse** or an offence of manslaughter) by the **Insured**, provided that:

1. such fraudulent, dishonest, malicious or reckless act or omission is the same as that giving rise to the **Claim** for which **Defence Costs** cover is available pursuant to the paragraph above;
2. such proceedings are notified to the **Insurer** as soon as reasonably practicable; and
3. such proceedings have not been notified to any prior or subsequent insurance policy.

Exclusion 8, Criminal, Fraudulent, Dishonest Acts or Omissions, of this **Policy** will not apply to such extended **Defence Costs**.

Extension Exclusions

No part of this Extension shall apply:

- a. to any costs or expenses incurred by or on behalf of an **Insured** from the time any final judgment or other final adjudication (not subject to any further appeal) is entered against such **Insured**, or from the time of any guilty plea or other admission under oath is made by such **Insured**, in respect of such **Claim** or criminal proceedings; or
- b. if a Senior Counsel with the appropriate experience and expertise mutually agreed upon by the **Insurer** and the **Named Insured** (or if no agreement is reached, appointed by the President of the Bar Council of the New South Wales Bar Association) advises that such **Claim** or criminal proceedings cannot be contested with a reasonable prospect of success. The costs of the Senior Counsel's advice shall be deemed to be **Defence Costs** under this **Policy**.

5. **Manslaughter Defence Costs**

Civil proceedings

Exclusion 8, Criminal, Fraudulent, Dishonest Acts or Omissions, of this **Policy** will not apply to any **Defence Costs** incurred by the **Insured** with the **Insurer's** prior written consent (not to be unreasonably withheld) in respect of a **Claim** alleging an offence of manslaughter which would be covered under an operative Section of Part A of this **Policy** but for the above Exclusion.

Criminal proceedings

Further, the insurance provided for **Defence Costs** is extended to include reasonable and necessary legal costs and expenses incurred by the **Insured** with the **Insurer's** prior written consent (not to be unreasonably withheld) in the defence of any criminal proceedings brought against the **Insured** in respect of any offence of manslaughter by a natural person or any offence under any applicable corporate manslaughter legislation, provided that:

1. such offence is the same as that giving rise to the **Claim** for which **Defence Costs** cover is available pursuant to the paragraph above;
2. such proceedings are notified to the **Insurer** as soon as reasonably practicable; and
3. such proceedings have not been notified to any prior or subsequent insurance policy.

Exclusion 8, Criminal, Fraudulent, Dishonest Acts or Omissions, of this **Policy** shall not apply to such extended **Defence Costs**.

Extension Exclusions

No part of this Extension shall apply:

- a. to any costs or expenses incurred by or on behalf of an **Insured** from the time any final judgment or other final adjudication (not subject to any further appeal) is entered against such **Insured**, or from the time of any guilty plea or other admission under oath is made by such **Insured**, in respect of such **Claim** or such criminal proceedings; or

- b. if a Senior Counsel with the appropriate experience and expertise mutually agreed upon by the **Insurer** and the **Named Insured** (or if no agreement is reached, appointed by the President of the Bar Council of the New South Wales Bar Association) advises that such **Claim** or such criminal proceedings cannot be contested with a reasonable prospect of success. The costs of the Senior Counsel's advice shall be deemed to be **Defence Costs** under this **Policy**.

6. Public Relations Costs

The insurance provided for **Defence Costs** is extended to include reasonable and necessary costs and expenses of a public relations consultant retained by the **Insured** in preventing or reducing adverse publicity which is reasonably likely to cause material reputational damage to the **Insured's Business**, and which arises from a **Claim** covered under an operative Section of Part A of this **Policy**, provided that:

1. the **Insurer** has given its prior written consent to such public relations consultant being retained and has given its consent to the costs and expenses incurred by such consultant (such consent not to be unreasonably withheld); and
2. such extended **Defence Costs** will not apply after such **Claim** has been settled or pursued to final judgment or other final adjudication (not subject to any appeal).

If, after notice under Notice and Conduct of Claims Conditions 2, Notice of Circumstance, or 3, Notice of Occurrence, the **Insurer**, at its sole discretion, pays any sum under any Defence Costs Extension above before a **Claim** arising from the **Circumstance** or **Occurrence** is first made, or if it does so and no such **Claim** is in fact made, such sum will be covered under such Extension as if one such **Claim** had been made.

ADDITIONAL INSURED EXTENSIONS

1. Indemnity to Principal

The insurance provided under any operative Section of Part A of this **Policy** is extended to add as an **Insured** any principal on whose behalf any **Insured Entity** is providing a service

as part of the **Insured's Business** under a written contract but only in such capacity, and only to the extent cover would otherwise have been available under this **Policy**, and provided always that:

1. such principal's liability arises directly and solely from the service performed by such **Insured Entity**;
2. such principal has not, in the **Insurer's** reasonable opinion, caused or contributed to the claim brought against it; and
3. such principal has not admitted liability or prejudiced the defence of the claim without the **Insurer's** prior written consent.

2. Indemnity to Spouse & Estate

The insurance provided under any operative Section of Part A of this **Policy** is extended to add as an **Insured** the spouse, or any natural person with equivalent legal status, of an **Insured Individual** (hereinafter "Spouse"), and the estate or heir(s) of any **Insured Individual** who is deceased or legally incapacitated (hereinafter the "Estate"), but only in such capacity, and only to the extent cover would otherwise have been available under this **Policy**, and provided always that:

1. such Spouse or Estate's liability arises directly and solely from the activities of such **Insured Individual**;
2. such Spouse or Estate (or the personal representatives of the Estate) has not, in the **Insurer's** reasonable opinion, caused or contributed to the claim brought; and
3. such Spouse or Estate (or the personal representatives of the Estate) has not admitted liability or prejudiced the defence of the claim without the **Insurer's** prior written consent.

3. Joint Ventures

The insurance provided under any operative Section of Part A of this **Policy** is extended to add as an **Insured** any joint venture participated in by any **Insured Entity** as at the **Inception Date**, but only if such joint venture is disclosed to the **Insurer** in the **Proposal** prior to the **Inception Date**, and only for so

long as such **Insured Entity** participates in such joint venture.

The **Insurer** will not be liable under this **Policy** in respect of any liability arising from any joint venture which does not arise solely from the activities of an **Insured Entity** in respect of such joint venture, except to the extent of the product of (i) the total percentage interest in such joint venture of all **Insured Entities** who participate therein and (ii) the total amount of such liability.

If any **Insured Entity's** percentage interest is not set forth in writing in a contract or agreement in respect of the joint venture, the percentage interest of such **Insured Entity** will be the percentage interest which would be imposed by law at the inception of the joint venture and will not be increased by the insolvency of others with an interest in the joint venture.

Notwithstanding anything to the contrary in paragraphs 1. to 3. above, no other person will be added as an **Insured** by virtue of the addition of the persons referred to in those paragraphs as **Insureds**. Further, no other Extension or Additional Cover in this Part B of this **Policy** shall apply or be available to any such persons.

CONTINUOUS COVER

The insurance provided under the **Healthcare Liability Section** and **Professional Liability Section** (if operative) is extended as follows:

As respects any **Claim** arising from a **Circumstance** subject to Exclusion 23., Prior Known, or Exclusion 25., Prior Notified, such **Claim** shall not be excluded by such Exclusions, provided always that all of the following conditions are satisfied:

1. the **Insurer** insured the **Insured** under an insurance policy materially equivalent to the terms of this **Policy** at the time such **Circumstance** was first known, in whole or in part, and continued without interruption to insure the **Insured** under such insurance policy(ies) up until the **Inception Date**;
2. there has been no fraudulent non-disclosure or fraudulent misrepresentation in respect of such **Circumstance** in respect of any policy referred to in paragraph 1. above;

3. had such **Circumstance** been notified at the time such **Circumstance** was known, the **Insured** would have been covered under the policy(ies) in force at that time; and
4. such **Circumstance** or any **Claim** arising from it has not been reported or deemed reported under any other insurance policy.

If all the above conditions are satisfied, and the **Claim** arising from such **Circumstance** is covered under this **Policy**, the **Claim** will be covered in accordance with and subject to all the policy terms, conditions and exclusions, and limits of liability (taking into account the extent to which such limits have been eroded or exhausted), of the policy in place at the time the **Circumstance** was first known. In addition, the **Insurer** shall be entitled to reduce its liability under this **Policy** in respect of such **Claim** to the extent of any prejudice the **Insurer** has suffered in connection with the **Insured** not reporting such **Circumstance** or other matter at the time it was first known. Further, nothing in this continuous cover extension shall increase or reinstate the limits of liability of this **Policy**.

OVERSEAS LIABILITY EXTENSION

The insurance provided under the **Public Liability Section**, if operative, in respect of **Bodily Injury** or **Property Damage** caused by an **Occurrence** is extended to include in the definition of **Occurrence** an accidental event or continuous or repeated exposure to the same harmful conditions not expected or intended by the **Insured**, arising from the personal activities of an **Insured Individual** while temporarily outside the **Coverage Territory** for a period no longer than 30 days in connection with the **Insured's Business** within the **Coverage Territory**. A series of accidental events attributable to the same, or substantially the same, original cause or source will be deemed to be one accidental event for the purposes of this paragraph. Exclusion 33, Territorial Limits, of this **Policy** shall not apply to this Extension.

However, the insurance provided by this Extension will not include any actual or alleged liability arising in connection with the ownership or occupation of any land or buildings.

ADDITIONAL COVER**1. Loss of Documents**

The **Insurer** will indemnify the **Insured** for **Lost Documents Expenses** in respect of the **Insured's** first discovery of **Lost Documents** during the **Policy Period**, provided such first discovery is notified to the **Insurer** within 30 days of such first discovery.

Any costs or expenses incurred in replacing or restoring **Lost Documents** or any other documents or records in any form whatsoever will not otherwise be covered under this **Policy**.

PART C
LIMITS OF LIABILITY, EXCESS & RELATED LOSSES

LIMITS OF LIABILITY

1. Section Limits of Liability

The **Insurer's** liability under each Section of Part A of this **Policy** is specified in Item 5 of the **Schedule**. The each **Claim** or each **Occurrence** Limits of Liability specified therein under a Section of Part A of this **Policy** will be the **Insurer's** maximum liability under such Section in respect of each **Claim** or each **Occurrence** as specified therein. Any aggregate Limit of Liability specified therein under any Section of Part A of this **Policy** will be the **Insurer's** maximum liability under such Section regardless of the number of **Insureds, Claims, Incidents, Wrongful Acts, Circumstances, Occurrences** or Extensions under this **Policy**.

Any Sub-Limit of Liability specified in Item 5 of the **Schedule** under any Section of Part A of this **Policy** as respects **Bodily Injury, Property Damage, Personal Injury or Pure Financial Loss**, will be the **Insurer's** maximum liability in respect of such **Bodily Injury, Property Damage, Personal Injury or Pure Financial Loss** under such Section in respect of each **Claim** or each **Occurrence** (as specified therein), and in the aggregate (if specified therein). Any such Sub-Limit shall be part of and not in addition to the Limits of Liability of the Section of Part A of this **Policy** under which such Sub-Limit is specified.

In no event shall liability arising from the same **Claim** be covered under more than one Section of Part A of this **Policy**.

2. Section Extensions Limits of Liability

Any payment made by the **Insurer** under any Extension in Part B of this **Policy** is subject to and reduces the Limits of Liability for the Section of Part A of this **Policy** to which the Extension applies or upon which it is contingent.

In addition, certain Extensions are subject to a Sub-Limit specified in Item 6 of the **Schedule**, which will be the **Insurer's** maximum liability under such Extension in respect of each **Claim**

(as respects the **Healthcare Liability Section** or the **Professional Liability Section**) or each **Occurrence** (as respects the **Public Liability Section**), to which such Extension applies or upon which it is contingent, and in the aggregate, if specified therein, regardless of the number of Sections of Part A of this **Policy** to which such Extension may apply. Any such Sub-Limit shall be part of and not in addition to the Limits of Liability.

3. Additional Cover Limits of Liability

The **Insurer's** maximum liability for **Lost Documents Expenses** under the Additional Cover in Part B of this **Policy** will not exceed the **Lost Documents Expenses** Aggregate Limit specified in Item 7 of the **Schedule** regardless of the number of **Insureds** or **Lost Documents**. The **Lost Documents Expenses** Aggregate Limit is separate from and in addition to the Section Limits of Liability provided for above.

4. Payment of Defence Costs

Any payment of **Defence Costs** (including any sum under any Defence Costs Extension) by the **Insurer** will be subject to and shall reduce the applicable Limits of Liability of this **Policy** even if the **Insurer** assumes control pursuant to Notice and Conduct of Claims Condition 6, Claims Control, of this **Policy**.

5. Policy Limits of Liability

The **Insurer's** maximum liability under this **Policy** shall not exceed the Policy Aggregate Limit specified in Item 8 of the **Schedule** regardless of the number of **Insureds, Claims, Incidents, Wrongful Acts, Circumstances, Occurrences**, Sections of Part A of this **Policy** or Extensions or the Additional Cover provided. However, notwithstanding the foregoing, the Policy Aggregate Limit shall not apply to any Section of Part A of this **Policy** which is not subject to an aggregate Limit of Liability, as specified in Item 5 of the **Schedule**.

EXCESS

1. Section & Extension Excesses

The Excess under each Section of Part A of this **Policy** is specified in Item 9 of the **Schedule** and will be the first amount of **Damages** and **Defence Costs** in respect of each **Claim** or each **Occurrence**, as specified therein (including any sum under any Extension in Part B of this **Policy** applicable to or contingent upon that **Claim** or **Occurrence**), retained by the **Insured**, for which the **Insurer** will not be liable under this **Policy** and in excess of which the cover provided by each Section and Extension will apply.

2. Additional Cover Excess

Lost Documents Expenses under the Additional Cover in Part B of this **Policy** will be subject to the **Lost Documents Expenses** Aggregate Excess specified in Item 10 of the **Schedule**. The **Lost Documents Expenses** Aggregate Excess will be the first amount of **Lost Documents Expenses** retained by the **Insured**, for which the **Insurer** will not be liable under this **Policy** and in excess of which the additional cover provided by this **Policy** for such **Lost Documents Expenses** will apply. The **Lost Documents Expenses** Aggregate Excess is separate from and in addition to the Section and Extension Excesses provided for above.

3. Payment of Defence Costs

Any payment of **Defence Costs** (including any sum under any Defence Costs Extension) by the **Insurer** will be subject to the applicable Excess of this **Policy**.

RELATED LOSSES

1. Same Person

Healthcare Liability Section

As respects the **Healthcare Liability Section**, all **Claims** arising from **Injury** of any kind sustained by the same natural person, their dependent or foetus, caused by:

1. the same **Incident**; or
2. related, repeated or similar acts, errors or omissions in breach of professional duty,

will be deemed to be one **Claim**.

All such **Claims** will be deemed to have been first made at the time the first **Claim** arising from any of such **Injury** is first made, and to have been notified to the **Insurer** at the time the first notice of any of such **Claims** is given to the **Insurer**, or if any of such **Claims** arises from any **Circumstance** first notified to the **Insurer** before any of such **Claims** is first made, all such **Claims** will be deemed to have arisen from the first such **Circumstance** and to have been first made and notified to the **Insurer** at the time the first notice of the first such **Circumstance** is given to the **Insurer**.

All acts, errors or omissions, or events or exposures to conditions, giving rise to such **Claims** will be deemed to have taken place at the time of the first of such matters giving rise to any of such **Claims**.

Professional Liability Section

As respects the **Professional Liability Section** (if operative), all **Claims** arising from **Injury** of any kind sustained by the same person, or if a natural person, the same natural person, their dependent or foetus, caused by:

1. the same **Wrongful Act**; or
2. related, repeated or similar acts, errors or omissions in breach of professional duty,

will be deemed to be one **Claim**.

All such **Claims** will be deemed to have been first made at the time the first **Claim** arising from any of such **Injury** is first made, and to have been notified to the **Insurer** at the time the first notice of any of such **Claims** is given to the **Insurer**, or if any of such **Claims** arises from any **Circumstance** first notified to the **Insurer** before any of such **Claims** is first made, all such **Claims** will be deemed to have arisen from the first such **Circumstance** and to have been first made and notified to the **Insurer** at the time the first notice of the first such **Circumstance** is given to the **Insurer**.

All acts, errors or omissions giving rise to such **Claims** will be deemed to have taken place at the time of the first act, error or omission giving rise to any of such **Claims**.

Public Liability Section

As respects the **Public Liability Section** (if operative), any and all **Injury** of any kind

sustained by the same person, or if a natural person, the same natural person, their dependent or foetus, caused by the same **Occurrence**, will be deemed to have occurred at the time at which the first such **Injury** occurs. As respects **Personal Injury**, that will be deemed to be when the first act, error or omission which causes any such **Personal Injury** occurs. As respects **Pure Financial Loss**, that will be deemed to be the earlier of when the first **Claim** was made against the **Insured** for any such **Pure Financial Loss** or when the first notice of circumstances reasonably likely to give rise to a **Claim** for any such **Pure Financial Loss** was first given by the **Insured** to the **Insurer**.

2. Same Occurrence

Healthcare Liability Section

If there is an **Occurrence** giving rise to liability covered under the **Healthcare Liability Section** (by virtue of the inclusion of the **Occurrence** in the second paragraph of the definition of **Incident** and that paragraph being operative), all **Claims** covered under that Section arising from the same **Occurrence** (included in such **Incident**) will be deemed to be one **Claim**. However, nothing in this paragraph will affect any **Claims** arising from any act, error or omission included in the first paragraph of the definition of **Incident**.

Healthcare Liability Section and Public Liability Section

In addition, as respects the same **Occurrence** giving rise to **Non-Patient Injury** covered under the **Public Liability Section** and also giving rise to **Patient Injury** covered under the **Healthcare Liability Section** (by virtue of the inclusion of the **Occurrence** in the second paragraph of the definition of **Incident** and that paragraph being operative) of this **Policy** (or one such Section of this **Policy** and the other such Section of any other policy issued at any time by the **Insurer** to the **Insured**), the following additional provisions will apply: (i) the **Insurer's** maximum liability under such Sections combined in respect of all **Injury** arising from such **Occurrence** will be no more than the amount of the greatest of the Limits of Liability available under only one of such Sections; and (ii) the amount that the **Insured** will be liable to retain as an Excess under all such Sections combined will be limited to the amount of the greatest applicable Excess under only one of such Sections. The **Named Insured** agrees to reimburse the **Insurer** at the **Insurer's** request to the extent it makes any overpayment in respect of such **Injury** arising from such **Occurrence**.

Nothing in the paragraph above will be construed as increasing the Limits of Liability or Excesses which apply to **Injury** covered under any Section or policy referred to above.

**PART D
DEFINITIONS**

1. **Abuse** means the actual or threatened sexual abuse, sexual molestation, sexual assault, sexual victimisation, physical abuse, physical assault, verbal abuse, bullying, any resulting mental or emotional injury, or any coercion to engage in sexual or abusive activities.
2. **Bodily Injury** means death, physical injury to the body, disease, illness or mental injury.
3. **Circumstance** means any fact or circumstance which might give rise to a **Claim**.
4. **Claim** means a demand or assertion of a right or entitlement made by a person against the **Insured** for **Damages** or the intimation by a person of the intention to seek such **Damages**, provided such demand, assertion or intimation is communicated to the **Insured**.
5. **Claims Jurisdiction** means the territory or territories specified in Item 14 of the **Schedule**.
6. **Clinical Trial** means any study, research, test, experiment or trial in relation to humans to develop, discover, test or verify the safety, efficacy, reactions to or effects of substances, drugs, treatments, procedures, products or devices.
7. **Clinician** means any physician, surgeon, obstetrician, pharmacist, dentist or psychiatrist.
8. **Computer Systems** means computer hardware, software or firmware, or associated input and output devices, data storage devices, networking equipment, back up facilities or electronic data, whether operated by the **Insured** or on its behalf by a third party service provider.
9. **Coverage Territory** means the territory or territories specified in Item 13 of the **Schedule**.
10. **Damages** means compensatory damages and claimant's costs relating to such damages.
11. **Defence Costs** means reasonable and necessary legal costs and expenses incurred in the investigation, defence or settlement of a **Claim**. It does not mean:
 1. the salaries, wages, benefits or expenses of the **Insured**;
 2. the **Insured's** administrative expenses; or
 3. any costs or expenses referred to in the definition of **Damages**.
12. **Documents** means records and other documents created, obtained or received in the course of the **Insured's Business** within the **Coverage Territory**, for which the **Insured** is responsible in connection with the **Insured's Business**, except the following:
 1. any records or other documents kept in magnetic or electronic form unless such records or documents are duplicated and the duplicate is stored at a separate address as a back-up; and
 2. stamps, currency, coins, bank notes, bullion, travellers' cheques, cheques, postal orders, money orders, securities or any other similar documents or instruments.
13. **Employee** means a natural person who:
 1. works under a written contract of service or apprenticeship with an **Insured Entity**; and
 2. works under the direction and control of such **Insured Entity** in connection with the **Insured's Business**; and
 3. is treated by such **Insured Entity** as an employee for the purposes of applicable income tax withholding provisions.

It does not mean any self-employed person or independent contractor.
14. **Food or Drink** means any nutritious substance that a person eats or drinks. It does not include any medicine or other similar substance used to treat or prevent illness, disease or other injury (or any food or drink containing any such medicine or other substance).
15. **Good Samaritan Act Treatment** means **Healthcare Treatment** voluntarily administered without remuneration or any other benefit at the scene of an accident,

- medical emergency, disaster or catastrophe which is not on the **Insured's Premises** and which is not for or on behalf of any charity or other organisation.
16. **Healthcare Treatment** means medical, surgical, nursing, dental, therapeutic or mental health diagnosis, treatment or care, or any other similar service, together with any advice given in connection with such diagnosis, treatment or care, physical rehabilitation in connection with such diagnosis, treatment or care, and the furnishing or use of **Food or Drink**, medication, medical devices, appliances or any other products in connection with such diagnosis, treatment or care, and the handling or the performance of post-mortem examinations on human bodies.
17. **Inception Date** means the time the **Policy Period** commences.
18. **Incident** means:
1. an act, error or omission of the **Insured**, or of a person acting for or on behalf of the **Insured** or from the **Insured's Premises**, in breach of professional duty in rendering or failing to render:
 - a. **Professional Healthcare Services** within the **Coverage Territory**, or
 - b. **Good Samaritan Act Treatment** anywhere in the world, or
 2. an **Occurrence**, provided, however, that this paragraph 2. will only be operative if the **Public Liability Section** is operative.
19. **Injury** means **Bodily Injury, Property Damage, Personal Injury** or **Pure Financial Loss**.
20. **Insured** means any of the following: any **Insured Entity**; any **Insured Individual**.
21. **Insured Entity** means any of the following: the **Named Insured**; any **Subsidiary**.
22. **Insured Individual** means any of the following natural persons:
1. any **Employee** whether a **Clinician** or otherwise;
 2. the principals, partners, directors or managers of any **Insured Entity**;
3. the members of any committee of any **Insured Entity**;
 4. any student, apprentice, trainee or volunteer working for or on behalf of any **Insured Entity**; or
 5. religious personnel (including clergy and hospital chaplains) working with any **Insured Entity** on the **Insured's Premises**;
but only whilst acting within the scope of their duties as such (except in respect of **Good Samaritan Act Treatment**).
23. **Insured's Business** means the business or profession described in Item 4 of the **Schedule**, provided that in no event shall such business or profession be broader than that described in the **Proposal**.
24. **Insured's Premises** means premises used by any **Insured Entity** for the purpose of rendering **Healthcare Treatment** in connection with the **Insured's Business**.
25. **Insurer** means the company providing this insurance, designated in the General and Important Notices section of this policy wording.
26. **Lost Documents** means **Documents** that cannot be located following diligent search or have been accidentally destroyed or damaged.
27. **Lost Documents Expenses** means reasonable and necessary costs and expenses incurred by the **Insured** with the **Insurer's** prior written consent (not to be unreasonably withheld) in replacing or restoring **Lost Documents**. It does not include **Defence Costs** or **Damages**.
28. **Named Insured** means the entity specified in Item 1 of the **Schedule**.
29. **Network Security Breach** means:
1. unauthorised access to or unauthorised use of any **Computer Systems** by any person not an **Insured** under this **Policy**;
 2. a denial of service attack against any **Computer Systems**; or
 3. infection of any **Computer Systems** by a malicious code or transmission of a malicious code from any **Computer Systems**.

30. **Non-Patient Injury** means **Injury** except **Injury** included in the definition of **Patient Injury**.

31. **Occurrence** means:

1. as respects **Injury** other than **Personal Injury**:

- a. an accidental event, or
- b. continuous or repeated exposure to the same harmful conditions not expected or intended by the **Insured**,

arising in connection with the **Insured's Business** within the **Coverage Territory**, provided that, under sub-paragraph a. above, a series of accidental events attributable to the same, or substantially the same, original cause or source will be deemed to be one accidental event;

2. as respects **Personal Injury**, an act, error or omission arising in connection with the **Insured's Business** within the **Coverage Territory**, provided that all such related or repeated acts, errors or omissions will be deemed to be one such act, error or omission.

It does not mean or include any act, error or omission in breach of professional duty or otherwise in the rendering of or failure to render any professional advice, care or service.

32. **Organisational Change** means:

1. the **Named Insured** consolidating with, merging into, or selling all or substantially all of its assets to any other person or group of persons acting in concert; or
2. any person or group of persons acting in concert acquiring more than fifty per cent (50%) of the assets, shareholding or voting rights in respect of the **Named Insured**.

33. **Patient Injury** means **Injury** sustained by a natural person, their dependent or foetus, arising in connection with:

1. the rendering of or failure to render **Healthcare Treatment** to such natural person by the **Insured** or by a person

acting for or on behalf of the **Insured** or from the **Insured's Premises**; or

2. an event or exposure to conditions occurring while such natural person received or was in the course of receiving, or was at the **Insured's Premises** for the purpose of seeking or receiving, **Healthcare Treatment** from the **Insured**, or from a person acting for or on behalf of the **Insured** or from the **Insured's Premises**, provided, however, that this paragraph 2 will only be operative if the **Public Liability Section** is operative.

34. **Personal Injury** means injury arising from:

1. misuse of private information, or breach of confidence, any right of privacy or data protection legislation;
2. defamation;
3. infringement of a copyright, patent, registered design, service mark, trade mark or trade name;
4. battery where valid consent has not been given;
5. false arrest, wrongful detention or wrongful imprisonment; or
6. unintentional breach of consumer protection legislation,

including mental injury resulting from any of the above.

Any injury included in this definition shall be deemed to occur at the time of the act, error or omission which causes it.

35. **Policy** means the **Schedule**, this insurance policy wording, the **Proposal** and any endorsements.

36. **Policy Period** means the period of time specified in Item 2 of the **Schedule**.

37. **Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant or any other irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste (including materials to be discarded, stored pending final disposal, recycled, reconditioned or reclaimed).

38. **Product** means a product or good manufactured, sold, supplied, distributed,

specified, designed, formulated, constructed, modified, mixed or tested by or on behalf of the **Insured** (or by a person acting from the **Insured's Premises**), including any container, packaging, labelling or instructions for use with such product or good.

39. **Professional Healthcare Services** means the following services:

1. **Healthcare Treatment**;
2. the care, custody or control of **Documents** in connection with **Healthcare Treatment**;
3. the evaluation of the professional qualifications or clinical performance of any provider of **Healthcare Treatment**, or the promotion or maintenance of the quality of **Healthcare Treatment**, by the **Named Insured's** formal accreditation, standards review or equivalent professional board or committee; or
4. the execution of a decision or directive of the **Named Insured's** formal accreditation, standards review or equivalent professional board or committee,

but only insofar as undertaken in the conduct of the **Insured's Business**.

40. **Property Damage** means:

1. physical damage to, or loss or destruction of, specific tangible property, including any resulting loss of use of such property; or
2. trespass, nuisance or interference with any right of way, air, light or water.

However, where the definition of **Patient Injury** is used in the **Policy** (but not the definition of **Pure Financial Loss** in that definition), **Property Damage** means injury in the form of damage to, or loss or destruction of, specific tangible personal effects, including resulting loss of use of such personal effects.

Any resulting loss of use of property, as provided for above, will be deemed to occur at the time of the physical injury to, or loss or destruction of, the property that caused it.

Tangible property does not mean information represented, transmitted or stored

electronically including code or series of instructions operating systems programs, software and firmware.

41. **Proposal** means the proposal form completed by or on behalf of the **Named Insured** and all other information provided to the **Insurer** in connection with this **Policy** before the parties entered into this contract.

42. **Pure Financial Loss** means pecuniary loss that is not consequent upon **Bodily Injury** or **Property Damage** and is not otherwise included in the definition of **Injury**.

43. **Retroactive Date** means the date specified in Item 11 of the **Schedule** or, if later, the following:

1. in respect of the cover provided under any Section of Part A of this **Policy** specified in Item 12 of the **Schedule** (or any Extension in Part B of this **Policy**), the date specified therein in respect of such Section (or such Extension, if different); or
2. in respect of any **Incident** (as respects the **Healthcare Liability Section**) or **Wrongful Act** (as respects the **Professional Liability Section**) arising in connection with any Specified Business which forms part of the **Insured's Business**, or occurring at any Specified Premises which form part of the **Insured's Premises**, identified in Item 12 of the **Schedule**, the date specified therein in respect of such Specified Business or Specified Premises; or
3. in respect of any the actual or alleged liability of any **Insured Individual**, the date such **Insured Individual** commenced acting within the scope of their duties as such, or, if later, any date specified in Item 12 of the **Schedule** in respect of such **Insured Individual**; or
4. if more than one of 1. to 3. above applies, the latest of such dates.

44. **Schedule** means the "Schedule" which includes details of, among other things, the **Named Insured**, **Policy Period**, **Limits of Liability**, **Excess and Premium**, and which is provided with and refers to this policy wording.

45. **Subsidiary** means an entity in respect of which the **Named Insured** directly or ultimately controls the composition of the board, casts, or can control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of that entity, or holds more than one half of the issued share capital of that entity, as at the **Inception Date** of this **Policy** but only for as long as the **Named Insured** has such control, voting rights or holding.
46. **Terrorist Action** means the actual or threatened:
1. use of force or violence against persons or property;
 2. commission of an act dangerous to human life or property; or
 3. commission of an act that interferes with or disrupts an electronic or communication system undertaken by any person or group whether or not acting on behalf of or in connection with any organisation, government power, authority or military force,
- when the reasonably apparent intent or effect is:
- a. to intimidate or coerce a government or business or to disrupt any segment of the economy; or
 - b. to cause alarm, fright, fear of danger or apprehension of public safety in one or more distinct segments of the general public or to intimidate or coerce one or more such segments; or
 - c. to further political, ideological, religious or cultural objectives or to express support for, or opposition to, a philosophy, ideology, religion or culture.
47. **Wrongful Act** means an act, error or omission of the **Insured** in breach of professional duty in the conduct of the **Insured's Business** within the **Coverage Territory**.

**PART E
EXCLUSIONS**

This **Policy** does not cover and the **Insurer** will not indemnify or be liable to the **Insured** under this **Policy** in respect of any actual or alleged:

1. **Abuse**

1. Liability arising from actual or alleged **Abuse**;
2. Liability arising from the actual or alleged conscious disregard of **Abuse**, which term where used here and elsewhere in this **Policy** will be understood to mean the failure by any natural person who was aware, or ought reasonably to have been aware, of **Abuse**, to take all reasonable steps to prevent such **Abuse**;
3. Liability arising from the employment or credentialing of any person who has or is alleged to have committed **Abuse**; or
4. Liability arising from the negligent supervision, investigation or reporting to the proper authorities of any person who has or is alleged to have committed **Abuse**;

2. **Advertising Activity**

Liability arising from advertising activities, including liability arising from the incorrect description of any goods, services, articles or commodities or a mistake or incorrect description in any advertised price;

3. **Aircraft/Motor Vehicle/Watercraft**

Liability arising from the ownership, maintenance, use, operation or entrustment to others of any aircraft, motor vehicle or watercraft, except that this Exclusion shall not apply to liability on account of **Patient Injury** arising from the loading or unloading of any aircraft, motor vehicle or watercraft under the operation and control of the **Insured**;

4. **Asbestos**

Liability arising from or connected with the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of or exposure to asbestos, asbestos containing products or materials or asbestos fibres or asbestos contained in or forming part of any building, building material or insulating

material, or any derivatives of asbestos, except that this Exclusion shall not apply to any **Patient Injury** caused by an act, error or omission in breach of professional duty in the rendering of or failure to render **Healthcare Treatment** for **Bodily Injury** caused by any of the matters referred to above;

5. **Claims Jurisdiction**

Liability arising in connection with any legal proceedings (including any criminal proceedings), inquest, disciplinary proceeding or other inquiry commenced outside of the **Claims Jurisdiction**;

6. **Clinical Trials**

Liability arising from any **Clinical Trial**, including the protocol for any such **Clinical Trial** and any publication relating to any **Clinical Trial**, except that this Exclusion will not apply to **Patient Injury** caused by an act, error or omission in breach of professional duty in the rendering of or failure to render **Healthcare Treatment** in the execution of a **Clinical Trial**;

7. **Contractual Liability**

Liability arising from any oral or written contract or agreement, including any express warranties or guarantees and any liability of any party assumed by the **Insured** under any oral or written contract or agreement, except that this Exclusion will not apply to the extent the **Insured** would have been liable in the absence of such contract or agreement;

8. **Criminal, Fraudulent, Dishonest Acts or Omissions**

Liability of an **Insured** arising in connection with any actual or alleged criminal, fraudulent, dishonest, malicious or reckless act or omission committed, condoned or contributed to by such **Insured**;

9. **Directors' and Officers' Liability**

Liability of the **Insured** incurred as a director, officer or trustee in respect of the performance or non-performance of their duties as a director, officer or trustee;

10. **Electronic Media**

Liability, loss, cost or expense arising from any defamation, harassment or extortion which occurs in connection with any information, text, graphics, images, or video or sound content, of any kind, published or posted (or in the case of extortion, threatened to be published or posted) on any form of electronic media, any website or any form of social media (including any blog and any on-line business or social network);

11. **Expected or Intended**

Injury (or a rate or level of **Injury**) expected or intended by the **Insured**, or which the **Insured** ought reasonably to have expected or intended, provided that this Exclusion will only apply as respects an **Occurrence**;

12. **Insured v Insured**

Liability of the **Insured** to another **Insured** (or affiliate of an **Insured Entity** or relative of an **Insured Individual**) except that this Exclusion will not apply to liability of the **Insured** to any **Insured Individual** on account of **Bodily Injury** to such **Insured Individual**, which is included in the definition of **Patient Injury**, caused by an act, error or omission in breach of professional duty in the rendering of or failure to render **Healthcare Treatment** to such **Insured Individual**;

13. **Intellectual Property**

Liability arising from the infringement of a copyright, patent, registered design, service mark, trade mark or trade name or from the misappropriation of ideas under an implied contract, where such infringement or misappropriation is known by the **Insured**, or ought reasonably to have been known by the **Insured**, to be such an infringement or misappropriation at the time of the act or omission concerned;

14. **Knowing Breach of Confidence Etc**

Liability of an **Insured** arising from any breach of confidence, misuse of private information, breach of data protection legislation or breach of any right of privacy, known by such **Insured**, or which ought reasonably to have been known by such **Insured**, to be a breach of confidence, misuse of private information, breach of data protection legislation or breach

of right of privacy at the time of the disclosure or use of the information concerned;

15. **Knowing False Statements**

Liability of an **Insured** arising from any oral or written statement known by such **Insured**, or which ought reasonably to have been known by such **Insured**, to be false at the time of publication;

16. **Intoxicants**

1. Liability of an **Insured** on account of **Injury** caused or contributed to by such **Insured** whilst under the influence of any type of alcohol, narcotic, hallucinogenic agent or any other type of intoxicant;
2. Liability of the **Insured** vicariously liable in respect of **Injury** caused by another person whilst under the influence of any type of alcohol, narcotic, hallucinogenic agent or any other type of intoxicant but only if such **Insured** knew or should reasonably have known that such person was under the influence of any type of alcohol, narcotic, hallucinogenic agent or any other type of intoxicant at or about the time such **Injury** was caused;

17. **Liability as an Employer**

Liability arising from any duty or obligation of the **Insured** as an employer owed to an employee, or former, prospective or applicant employee, or dependent of any such employee, including liability arising:

1. from **Bodily Injury** to any employee arising out of or during the course of his or her employment;
2. under any workers' compensation scheme, disability benefits, or unemployment compensation law, or any similar law or employment protection legislation; and
3. from any refusal to employ, termination of employment or coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination in respect of an employee, or other employment-related practices, policies, acts or omissions;

18. Liquor Liability

Liability arising from:

1. causing or contributing to the intoxication of any person by the furnishing of alcoholic beverages;
2. the furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
3. any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages;

19. Medical Licences

Liability of an **Insured** arising from an act, error or omission occurring at a time when any licence required by the relevant lawfully established and recognised licensing authority within the **Coverage Territory** in respect of such **Insured** or such **Insured's** activity had not been obtained, was not in force or was suspended;

20. Network Security Breach

Liability, loss, cost or expense arising in connection with any **Network Security Breach**, except that this Exclusion will not apply where:

1. such **Network Security Breach** causes any equipment, device or **Computer Systems** used for the purpose of rendering **Healthcare Treatment** to a person on the **Insured's Premises** to function other than in the way intended by the **Insured**; and
2. as a direct result of such failure, such person sustains **Bodily Injury** as a direct result of the rendering of or failure to render such **Healthcare Treatment**.

21. Nuclear

Liability arising from any nuclear fission, nuclear fusion or radioactive contamination or any other nuclear related hazard, except that this Exclusion does not apply to **Bodily Injury** included in the definition of **Patient Injury** resulting from the use of nuclear medicine or radiation therapy in rendering **Healthcare Treatment**, but does apply to liability arising from nuclear waste or by-product material which is created by the rendering of **Healthcare Treatment**;

22. Pollution

Liability, loss, cost or expense arising from:

1. the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants**; or
2. the testing for, monitoring, cleaning-up, removing, containing, treating, detoxifying or neutralising of **Pollutants**, whether or not any of the foregoing are or should be performed by the **Insured** or by others;

23. Prior Known

1. Liability of any **Insured**:

- a. arising from any **Claim** or **Circumstance**, which is known in whole or in part by such **Insured** prior to the **Policy Period**; or
- b. arising from any **Claim** or **Circumstance**, which is known in whole or in part by the **Named Insured** or any manager (or equivalent) in any **Insured Entity's** risk, insurance, claims or legal department, prior to the **Policy Period**;

provided that this Exclusion shall only apply to the **Healthcare Liability Section** and the **Professional Liability Section**;

2. Liability of any **Insured**:

- a. arising from any **Occurrence, Injury** or cause of **Injury**, which is known in whole or in part by such **Insured** prior to the **Policy Period**; or
- b. arising from any **Occurrence, Injury** or cause of **Injury**, which is known in whole or in part by the **Named Insured** or any manager (or equivalent) in any **Insured Entity's** risk, insurance, claims or legal department, prior to the **Policy Period**;

provided that this Exclusion shall only apply to the **Public Liability Section**;

3. **Lost Documents** known in whole or in part by the **Named Insured** or any manager (or equivalent) in any **Insured**

Entity's risk, insurance, claims or legal department, prior to the **Policy Period**;

24. **Prior Occurring**

1. Liability:

- a. arising in whole or in part from any act, error or omission, event or exposure to conditions taking place before the **Retroactive Date** (hereinafter "matters") or from any act, error or omission, event or exposure to conditions related to any such matters, including any duty to warn or otherwise advise in respect of any such matters; or
- b. arising from any **Claim** first made (or, under the terms of this **Policy** or any other insurance policy issued by the **Insurer**, deemed first made) before the **Inception Date**;

provided that this Exclusion will only apply to the **Healthcare Liability Section** and to the **Professional Liability Section** and to any **Pure Financial Loss** under the **Public Liability Section**;

2. Liability arising from any **Injury** commencing or occurring (or, under the terms of this **Policy** or any other insurance policy issued by the **Insurer**, deemed to have commenced or occurred) before the **Policy Period**, provided that this Exclusion will only apply to the **Public Liability Section**;

25. **Prior Notified**

Liability arising from any **Incident, Wrongful Act, Occurrence, Injury, Claim, Circumstance** or any other matter:

1. notified to a Medical Defence Organisation prior to the **Policy Period**; or
2. notified under any insurance policy commencing prior to the **Policy Period**, or deemed notified, or which the **Insured** was entitled to or should reasonably have notified, under the terms of any such policy;

26. **Privacy Breach Costs and Expenses**

Notification costs, computer security costs, forensic costs, call centre costs, public

relations costs, credit or personal information monitoring costs or any other such costs or expenses, or any **Pure Financial Loss**, incurred in connection with the theft, access to, loss of, damage to or disclosure of private, confidential, privileged or personal information or data, whether arising in connection with any **Network Security Breach** or otherwise, and whether incurred by the **Insured** or by others;

27. **Products**

Liability arising from any **Product** except that this Exclusion will not apply to any liability arising from any **Food or Drink** manufactured, sold or supplied by or on behalf of the **Insured** on the **Insured's Premises**;

28. **Product Property Damage**

Physical damage to, or loss or destruction of, any **Product**, or any part thereof, or any **Pure Financial Loss** or **Property Damage** arising out of such **Product** or any part thereof;

29. **Product Recall**

Liability, loss, cost or expense incurred in relation to the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of a **Product**, if such **Product** is withdrawn or recalled from the market or from use by any person;

30. **Property Damage**

Property Damage to:

1. any property the **Insured** owns, rents, or occupies, including any costs or expenses incurred by the **Insured** or any other person, for repair, replacement, enhancement, restoration, maintenance, evacuation, cleaning-up, treating or detoxifying of such property for any reason, including prevention of injury to a person or damage to another's property;
2. any premises sold, given away, or abandoned by the **Insured**;
3. any property loaned to the **Insured**;
4. any personal property in the care, custody or control of the **Insured**; or
5. that particular part of land on which the **Insured** or any contractors or subcontractors working directly or indirectly on the **Insured's** behalf are

performing operations, if the **Property Damage** arises out of those operations;

except that this Exclusion will not apply to **Property Damage** included in the definition of **Patient Injury** or to any **Lost Documents** otherwise covered under this **Policy**;

31. Punitive Damages, Fines and Penalties

1. Exemplary or punitive damages or that part of damages resulting from the multiplication of compensatory damages;
2. aggravated damages;
3. restitutionary damages; or
4. fines, penalties or other pecuniary sanction.

32. Systems Failure

1. Liability or **Lost Documents** arising from the failure of any program, software, instruction or data for use in any computer or other electronic processing device, equipment or system, to function in accordance with its specification; or
2. Liability or **Lost Documents** arising from any computer virus or other similar mechanism;

except that this Exclusion shall not apply to **Bodily Injury** included in the definition of **Patient Injury** caused by an act, error or omission in breach of professional duty in the rendering of or failure to render **Healthcare Treatment**.

33. Territorial Limits

Liability or **Lost Documents** arising from or in connection with the activities of the **Insured's Business** outside of the **Coverage Territory**;

34. Terrorism, War and Weapons of Mass Destruction (WMD)

Liability arising from or connected with any of the following:

1. war (whether declared or not), invasion, acts of a foreign enemy, hostilities, or any similar act, condition or operation, or action by a regular or irregular military force or other authority to hinder or defend against actual or expected attack;

2. insurrection, rebellion, revolution, riot, attempt to usurp power, popular uprising, or any action taken by any government or martial authority in hindering or defending against any of the foregoing;

3. **Terrorist Action** or any government or other civil authority responding to actual or anticipated **Terrorist Action**; or

4. discharge, explosion, or use of a weapon of mass destruction of any kind, including any nuclear, radioactive, biological or chemical weapon or agent;

except that this Exclusion will not apply to **Bodily Injury** included in the definition of **Patient Injury** caused by an act, error or omission in breach of professional duty in the rendering of or failure to render **Healthcare Treatment** for **Bodily Injury** caused by any of the matters referred to above;

35. Trading, Tax, Investment, Insurance Losses

1. Trading losses or trading liabilities or loss of profits incurred by or on behalf of the **Insured** or by any business managed by or carried on by or on behalf of the **Insured**;
2. Liability or loss arising from any breach of taxation, competition, restraint of trade or anti-trust law or regulation;
3. Liability or loss arising from any investment or investment advice, any operation or administration of any pension or employee benefit scheme or trust fund, or any arrangement or maintenance of insurance, indemnity or finance; or
4. Liability or loss arising in connection with the **Insured's** insolvency or bankruptcy;

36. Unlicensed/Unapproved Products

Liability arising in connection with the recommendation, furnishing or use for any purpose of any product or good which is not licensed or approved in accordance with applicable laws, regulations or rules, but only if such product or good is required to be licensed or approved for the purpose in question.

**PART F
CONDITIONS**

GENERAL CONDITIONS

1. Authorisation

The **Named Insured** shall act for and on behalf of all **Insureds** for the purposes of giving notices to and receiving notices from the **Insurer** or its representatives under any provision of this **Policy**, and for receiving any return premium pursuant to General Condition 5, Cancellation, of this **Policy**.

2. Applicable Law and Jurisdiction

Applicable Law

This **Policy**, and any dispute or claim arising out of or relating to it, shall be governed by and construed in accordance with the laws of the State of New South Wales, Australia.

Jurisdiction

Any dispute, controversy or claim arising out of or relating to this **Policy** or the breach, cancellation, termination or invalidity thereof shall be subject to the exclusive jurisdiction of the courts of Australia.

3. Assignment

This **Policy** or any right arising under it may not be assigned without the prior written consent of the **Insurer**.

4. Avoidance

If the **Insurer** is entitled for any reason to avoid liability under this **Policy** from inception, the **Insurer** may at its absolute discretion elect by written notice to the **Named Insured** to affirm this **Policy**, provided that in the event of such election in no event shall coverage be available under this **Policy** arising from or relating to the grounds entitling the **Insurer** to avoid.

5. Cancellation

This **Policy** may be cancelled by the **Named Insured** by giving written notice of cancellation to the **Insurer**. The **Policy Period** shall terminate at the time specified in such notice provided that such time may not be before the notice was sent by the **Named Insured**. In the event of cancellation by the

Named Insured, the **Insurer** shall retain its proportionate share of the premium specified in Item 15 of the **Schedule**, by reference to the proportion of the **Policy Period** for which the **Insurer** was on risk or, if greater, thirty-five per cent (35%) of the premium specified in Item 15 of the **Schedule**.

However, in the event that the **Insurer** has indemnified or agreed to indemnify the **Insured** in respect of any **Claim** or established a reserve in respect of any **Claim**, no premium will be returned to the **Named Insured** or any other **Insured** under this **Policy**. Further, if any **Claim** should subsequent to the return of any premium under this **Policy** be indemnified by the **Insurer**, the **Insurer** will be entitled to set-off from such indemnity the premium returned to the **Named Insured**.

The **Insurer** may cancel this **Policy** in accordance with the provisions of the Insurance Contracts Act 1984 (Cth).

6. Change in Risk

The **Insured** must as soon as practicable give the **Insurer** written notice of any event or other matter that materially changes the risk insured by this **Policy**, including the acquisition or formation of any subsidiary, the **Insured's** entering into any new joint venture, the **Insured** operating from new premises or a material change in any part of the **Insured's Business**.

Any additional exposure will not be covered under this **Policy** unless agreed by Endorsement to this **Policy**.

7. Credentialing Requirements

Each **Insured Entity** must use its best endeavours to ensure that each **Clinician** acting for or on behalf of such **Insured Entity**, or from premises used by such **Insured Entity** for the purposes of rendering **Healthcare Treatment**, at all times:

1. maintains all licences required for their individual activity by the relevant lawfully established and recognised regulator or

- licensing authority within the **Coverage Territory**; and
2. unless such **Clinician** is an **Insured Individual**, maintains professional liability insurance arranged with a reputable insurer with a good credit rating, or other indemnity provided by a recognised Medical Defence Organisation, providing:
 - a. limits of liability on a primary or first-loss basis appropriate to the **Healthcare Treatment** provided by such **Clinician**, with cover at least as broad as the minimum professional liability insurance requirements of the relevant regulator; and
 - b. cover for the reporting of claims first made after the expiry of the policy or after any such **Clinician** ceases carrying out professional medical services for or on behalf of the **Insured** or at the **Insured's Premises**.
8. **Dates**
- Unless otherwise stated to the contrary, reference in this **Policy** to any calendar date will be understood to refer to 12.01 a.m. on such date at the **Named Insured's** address.
9. **Manner of Notice**
- Except as set out in Notice and Conduct of Claims Condition 4, Manner of Notice of Claims, of this **Policy**, any notice to be given under this **Policy** must be sent by email or by recorded post to the address specified in Item 17(B) of the **Schedule** (in the case of notice by the **Insured** to the **Insurer**) or Item 1 of the **Schedule** (in the case of notice by the **Insurer** to the **Insured**).
10. **Organisational Change**
- If an **Organisational Change** occurs during the **Policy Period**, cover will not be provided for **Claims** arising from or related to **Incidents** or **Wrongful Acts**, in the case of the **Healthcare Liability Section** and the **Professional Liability Section** (as applicable), or **Injury**, in the case of the **Public Liability Section**, occurring after the effective date of such **Organisational Change** unless otherwise agreed by the **Insurer** by written endorsement to this **Policy**.
11. **Other Insurance**
- If at the time any **Claim** made under this **Policy** there is any other insurance covering the same liability, the **Insured** will give to the **Insurer** as soon as reasonable practicable full details of such other insurance, including policy number, name of insurer and such other information as the **Insurer** may reasonably require.
12. **Paying the Limit**
- The **Insurer** will be entitled at any time and at its absolute discretion to pay the **Named Insured** the full remaining Limits of Liability of this **Policy**, after which the **Insurer** will have no liability whatsoever under this **Policy**.
13. **Payments by the Insurer within the Excess**
- Any sums paid by the **Insurer** which are within any Excess specified in Item 9 or in Item 10 of the **Schedule** must be reimbursed by the **Named Insured** at the **Insurer's** request.
14. **Reasonable precautions**
- The **Insured** must:
1. take all reasonable steps to prevent accidents and to observe and comply with all relevant applicable laws, obligations, requirements, regulations and codes of professional conduct relevant to their practice; and
 2. exercise reasonable due care in the selection, direction and supervision of **Employees**, if applicable.
15. **Run-off Cover**
- If the **Named Insured** or the **Insurer** refuses to renew this **Policy** and the **Named Insured** is not able to procure materially equivalent cover, or if an **Organisational Change** occurs during the **Policy Period**, the **Insurer** will offer the **Named Insured** the right to purchase an Extended Reporting Period of 12 months from the effective date of such non-renewal or **Organisational Change**, upon payment of the Extended Reporting Period Premium of one hundred percent (100%) of the Premium specified in Item 15 of the **Schedule**. The Extended Reporting Period will apply solely as respects the **Healthcare Liability Section** and the **Professional Liability Section** (if operative). The right to elect an Extended

Reporting Period will terminate unless written notice of election of an Extended Reporting Period is received by the **Insurer** before the end of the **Policy Period** or within 14 days of notice of non-renewal (if any is given), whichever is later, or with respect to an **Organisational Change** before the **Organisational Change**, and the **Named Insured** pays the Extended Reporting Period Premium at the time such notice is given.

The **Insurer** will not offer an Extended Reporting Period if the **Insurer** cancels this **Policy** for non-payment of premium. The Extended Reporting Period Premium will be fully earned at the inception of the Extended Reporting Period. The Extended Reporting Period is not cancellable.

During any applicable Extended Reporting Period, the **Insured** may give the **Insurer** written notice pursuant to Notice and Conduct of Claims Condition 1, Notice of Claim, of this **Policy of Claims** first made against the **Insured** during such Extended Reporting Period, but solely with respect to any **Incident** (as respects the **Healthcare Liability Section**) or **Wrongful Act** (as respects the **Professional Liability Section**) that takes place prior to the end of the **Policy Period** or **Organisational Change**, as applicable, and after the **Retroactive Date** and is otherwise covered by this **Policy**. Such **Claims** will be deemed to have been first made and notified to the **Insurer** during the **Policy Period**.

The cover provided by the Extended Reporting Period will not increase or reinstate the Limits of Liability specified in Part C of the **Policy**.

16. Sanctions

The **Insurer** will not be deemed to provide cover nor be liable to pay any claim or provide any benefit under this **Policy** to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the **Insurer** to any sanction, prohibition or restriction, including under United Nations resolutions, or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, United States of America or Australia.

17. Subrogation

The **Insurer** will be subrogated to all the rights of recovery of the **Insured** against any person before or after any payment is made under this **Policy** provided that the **Insurer** will not exercise any such rights against any **Insured** unless:

1. the liability, loss, cost or expense in respect of which payment is provided under this **Policy** was caused or contributed to by fraud or dishonesty or by malicious act, error or omission by such **Insured** or by persons acting for or on behalf of the **Insured**; or
2. such **Insured** has separate insurance in respect of the liability, loss, cost or expense indemnified under this **Policy**.

The **Insured** will promptly at its own expense provide the **Insurer** with such assistance as it may reasonably require in pursuing any right of recovery. If the **Insured** interferes with or prejudices the **Insurer's** ability to exercise any right of recovery, whether by waiving its rights or otherwise, the **Insurer** will be entitled to reduce any payments otherwise due under this **Policy** in an amount equal to the amount the **Insurer** is unable to recover due to such conduct of such **Insured**.

18. Severability and Non-Imputation

Where there is more than one **Insured** under this **Policy**, any:

1. failure to comply with duties of disclosure;
2. engagement in any act or omission which is criminal, fraudulent, dishonest, malicious or reckless;
3. failure to comply with any obligation under this **Policy** (other than the payment of premium); or
4. state of mind or knowledge possessed,

by an **Insured** will not prejudice the rights of any other **Insured** under the **Policy**, but only where the other **Insured** has not participated in or condoned and has no prior knowledge of the relevant act or omission in question.

19. Taxes

Taxes, levies and other relevant fiscal charges are payable by the **Insured** in addition to the Premium specified in Item 15 of the **Schedule**.

Notwithstanding anything to the contrary in this **Policy**, the **Insurer's** liability to the **Insured** will be reduced by any input tax credit to which the **Insured** is entitled, or would have been entitled, as defined by the A New Tax System (Goods and Services Tax) Act 1999 (as amended or replaced). No payment will be made to the **Insured** for any GST liability that it may incur on the settlement of a **Claim** if the **Insured** does not inform the **Insurer** of its entitlement or correct entitlement to an input tax credit.

NOTICE AND CONDUCT OF CLAIMS CONDITIONS

1. Notice of Claim

Notwithstanding any provision of this **Policy**, the **Insured** must give notice to the **Insurer** as soon as reasonably practicable of any **Claim**.

2. Notice of Circumstance

As respects the **Healthcare Liability Section** and the **Professional Liability Section** (if operative), the **Insured** must give notice to the **Insurer** under this **Policy** as soon as reasonably practicable of any **Circumstance**. In deciding whether and the extent to which cover is available for any subsequent **Claim** that may arise from the **Circumstance** so notified under this **Policy**, the **Insurer** will apply the terms of this **Policy**, including all exclusions and conditions and limits of liability including the extent those limits have been eroded.

3. Notice of Occurrence

As respects the **Public Liability Section** (if operative), the **Insured** must give notice to the **Insurer** as soon as reasonably practicable of any **Occurrence** or **Injury** which may give rise to a **Claim**.

4. Manner of Notice of Claims

Notice by the **Insured** as contemplated by Notice and Conduct of Claims Conditions 1, 2 and 3, of this **Policy**, together with any notice of any criminal or disciplinary proceeding, or inquest or inquiry or other claims related matter, and any subsequent correspondence

in respect of such matters, must be sent by email or by recorded post to the applicable address specified in Item 17(A) of the **Schedule**. Such notice must contain sufficient information to allow the **Insurer** to identify the **Claim**, **Circumstance** or **Occurrence** (or other matter) in question, and also to identify the nature of the **Injury** and the identity of the person concerned. Any notice by or on behalf of the **Insured** to the **Insurer** shall be deemed given only on actual receipt by the **Insurer**.

5. Cooperation

The **Insured** must fully cooperate with the **Insurer** in the defence, investigation or settlement of any matter that may involve this **Policy** and, at its own expense, must provide all information and assistance that the **Insurer** may reasonably require. In addition, the **Insured** must ensure that all information is retained in accordance with relevant statutory regulations or procedures and ensure that all information relevant to any **Claim** and any **Circumstance** is preserved in its entirety and is not in any way destroyed or otherwise disposed of or sent to any third party except for the **Named Insured's** legal representatives without the prior written consent of the **Insurer**.

6. Claims Control

Insurer's Right to Control Claim

The **Insurer** does not assume any duty to defend the **Insured** under this **Policy** in respect of any **Claim** or otherwise. However, the **Insurer** will have the right at any time to take sole control of the defence (including the selection and direction of defence counsel), investigation or settlement of any **Claim** or **Circumstance** (or criminal or disciplinary proceeding, or inquest or inquiry, if applicable). The **Insurer** will have the right at any time to withdraw from the defence, investigation or settlement of any such matters and upon such withdrawal such defence, investigation or settlement will revert to the **Insured**.

Consent to Settlement etc

The **Insured** must not, in whole or in part, admit or assume any liability, agree to any settlement, incur any costs or expenses

including **Defence Costs** (whether under any Section of Part A of this **Policy** or under any Defence Costs Extension), consent to any arbitral or alternative dispute resolution proceedings or make any settlement offer or engage in any settlement negotiations without the **Insurer's** prior written consent.

Notwithstanding the above, any statement by the **Insured** in seeking to comply with any open disclosure obligations owed to any patient shall not be deemed to be an admission of liability, to the extent that such statement is reasonably necessary to comply with such obligations.

In addition, the **Named Insured** may, without the consent of the **Insurer**, enter into a full and final settlement of a **Claim** or pay **Defence Costs** in respect of any **Claim** which have been invoiced by a legal representative of the **Insured** retained with the **Insurer's** prior written consent, provided that:

1. the applicable Excess specified in Item 9 of the **Schedule** is not exceeded by such settlement or payment of **Defence Costs**;
2. the **Named Insured** notifies the **Insurer** as soon as it is reasonably likely that the limit of the applicable Excess may be reached; and
3. the **Insurer** has not assumed control of the **Claim** concerned.

7. **Insured's Right to Settle**

The **Insured** will not be obliged to defend any **Claim** the subject of legal proceedings if a Senior Counsel with the appropriate experience and expertise mutually agreed upon by the **Insurer** and the **Named Insured** (or if no agreement is reached, appointed by the President of the Bar Council of the New South Wales Bar Association) advises that such proceedings cannot be contested with a reasonable prospect of success. The costs of the Senior Counsel's advice shall be deemed to be **Defence Costs** under this **Policy**.

8. **Insured's Right to Contest**

If the **Insured** refuses to consent to a settlement amount recommendation by the **Insurer** in respect of any **Claim** that in the **Insurer's** reasonable opinion could be settled for such amount, and the **Damages** are ultimately in excess of the amount of the **Insurer's** settlement recommendation, then the **Insurer** will not be liable under this **Policy** for the **Damages** excess of the amount of the **Insurer's** settlement recommendation or any **Defence Costs** incurred by the **Insured** after the time of such recommendation.

9. **Mitigation**

The **Insured** must take all reasonable steps to minimize and not to increase any liability in connection with any **Claim** or **Circumstance** which may be covered under this **Policy**.